

MDR Tracking Number: M5-04-3327-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 6-1-04.

On 10-11-03 the requester withdrew CPT Code 97750-MT for dates of service 8-20-03 and 10-1-03.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the office visits, ROM measurements, therapeutic exercises, and temperature gradient studies-whole procedure from 8-06-03 through 11-25-03 were not medically necessary. Therefore, the requestor is not entitled to a reimbursement of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 8-2-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

- The carrier denied CPT Code 95851 for dates of service 7-8-03 and 9-3-03 with "G" – Reimbursement for this procedure is included in the basic allowance for another procedure. Rule 133.304 (c) states: (c) At the time an insurance carrier makes payment or denies payment on a medical bill, the insurance carrier shall send, in the form and manner prescribed by the Commission, the explanation of benefits to the appropriate parties. The explanation of benefits shall include the correct payment exception codes required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier's action(s). A generic statement that simply states a conclusion such as "not sufficiently documented" or other similar phrase with no further description of the reason for the reduction or denial of payment does not satisfy the requirements of this section. Therefore CPT Code 95851 for 7-8-03 will be reimbursed according to the 96 Fee Guidelines (\$36) and CPT Code 95851 for 9-3-03 will be reimbursed according to the Medicare Fee Schedule. The MAR for this service is \$39.36 however, according to Rule 134.202(d), reimbursement shall be the least of the (1) MAR amount or the as established by this rule or (2) health

- care provider's usual and customary charge. Recommend reimbursement of \$36.00 for date of service 7-8-03 and \$39.36 for date of service 9-3-03 **for a total of \$75.36.**

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees:

- in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (b);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 13th day of October 2004.

Donna Auby

Medical Dispute Resolution Officer
Medical Review Division

Amended Independent Review Decision

August 19, 2004

David Martinez
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-3327-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. -

This case was reviewed by a licensed Chiropractor. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ is a 39 year old female who, on ___, was injured when a bag of sand was thrown at her by a co-worker. She apparently twisted with the force of the bag and experienced immediate pain in her lower back and bilateral legs. She was treated initially medically by the company doctor, but eventually presented to a doctor of chiropractic who performed post-injection physical therapy and rehabilitation.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of the following: 9-9213 (OV) DOS 8-19-03, 10-06-03, 11-11-03 and 11-25-03, 95851 (ROM measurements) DOS 8-19-03, 97110 (therapeutic exercise) DOS 8-20-03 through 10-06-03, 93740-WP (temperature gradient studies-whole procedure) DOS 8-21-03 and 99211 (OV) DOS 10-28-03.

DECISION

The reviewer agrees with previous adverse determination.

BASIS FOR THE DECISION

The reviewer notes the daily progress notes were computer generated, nearly unchanged from day to day and lack any objective measurement to monitor patient response. For example, office notes immediately following a significant event (the patient receiving a steroid injection), there was no mention of the event anywhere in the treating doctor's record (specifically, date of service record 9-03-2003 following an ESI on 9-02-2003, and date of service record 9-16-2003 following another ESI on 9-15-2003). In fact, the treating doctor's records are completely

devoid of any discussion of, or basis for, the post-injection rehabilitation. Since the treating doctor failed to make this correlation, the medical necessity of the post-injection physical therapy cannot be supported.

In addition, the records that were submitted failed to document that chiropractic spinal adjustments were ever performed at any time. According to the AHCPR (1) guidelines, spinal manipulation was the only recommended treatment that could relieve symptoms, increase function and hasten recovery for adults suffering from acute low back pain. And, according to a study published in Spine (2), chiropractic spinal manipulation yielded the best results for chronic spinal pain (the dates of service here are eight months post-injury). Based on those studies, the reviewer notes that the treating doctor performed treatments that were not recommended by the AHCPR guidelines despite documentation of spinal fixations.

References:

1 Bigos, S., et al Acute Low Back Problems in Adults. Clinical Practice Guideline No. 14, AHCPR Publication No. 95-0642. Rockville, MD Agency for Health Care Policy and Research, Public Health Service, US Dept of Health and Human Services, December 1994.

2 Giles LGF, Muller R. Chronic Spinal Pain- A randomized clinical trial comparing medication, acupuncture and spinal manipulation. Spine 2003; 28: 1490-1503.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,